

## Specific Equality Duties - Regulations

### **Regulation 3** Requires the authority to publish objectives

#### **Equality objectives**

A listed body in Wales must:

- prepare and publish its equality objectives by 2 April 2012
- publish objectives to meet the general duty. If an authority does not have an objective for each protected characteristic – in addition to any objective to address pay differences – it must publish reasons why not
- publish a statement setting out the steps it has taken or intends to take to meet the objectives and how long it expects to take to meet each objective
- make appropriate arrangements to monitor progress towards meeting its objectives and to monitor the effectiveness of its approach
- give appropriate consideration to relevant equality information it holds when considering what its equality objectives should be.

A listed body in Wales must:

review all its equality objectives at least once every four years.

**A listed body may** revise or remake its equality objectives at any stage. If it does so, it must publish the new objective or revision and reflect any changes in its published statement about the timescale and steps for meeting its objectives. If a change is made to an equality objective on gender pay, it will need to be reflected in its gender pay action plan

**Regulation 3(2)** requires the authority to publish a **Statement which sets out how the steps the authority taken to achieve each equality objective.**

#### **Objectives on pay difference**

A listed body in Wales must:

- have due regard to the need to have objectives to address the causes of any pay differences that seem reasonably likely to be related to any of the protected characteristics
- publish an equality objective to address any gender pay gap identified or else publish reasons why it has not done so.
- Even where an authority publishes an equality objective to address pay differences in relation to any protected characteristic, it must still have due regard to the need to have other equality objectives in relation to that protected characteristic. If a listed body publishes no other objective in relation to the protected characteristic, it will need to explain why not.
- Review and revision of objectives

## **Regulation 4            how the authority will comply with the engagement provision in Regulation 5**

### **Engagement**

A listed body in Wales must:

- involve people who it considers representative of one or more of the protected groups and who have an interest in how an authority carries out its functions.

A listed body in Wales may:

- consult and involve other people that it considers appropriate. In reaching the decision as to who is appropriate, an authority must consider the need to involve or consult people from one or more of the protected groups who have an interest in the way the authority carries out its functions, where it is reasonably practicable to do so.
- This engagement must take place in relation to:
  - setting equality objectives
  - preparing and reviewing a Strategic Equality Plan
  - identifying how an authority's work and activities may contribute to meeting the general duty
  - assessing the likely impact on protected groups of any policies or practices being proposed or reviewed

## **Regulation 5            requires the Authority to comply with the Engagement provision**

### **Engagement**

A listed body in Wales must:

- involve people who it considers representative of one or more of the protected groups and who have an interest in how an authority carries out its functions.

A listed body in Wales may:

- consult and involve other people that it considers appropriate. In reaching the decision as to who is appropriate, an authority must consider the need to involve or consult people from one or more of the protected groups who have an interest in the way the authority carries out its functions, where it is reasonably practicable to do so.

This engagement must take place in relation to:

- setting equality objectives
- preparing and reviewing a Strategic Equality Plan
- identifying how an authority's work and activities may contribute to meeting the general duty assessing the likely impact on protected groups of any policies or practices being proposed or reviewed.
- make appropriate arrangements to monitor progress towards meeting its objectives and to monitor the effectiveness of its approach

- give appropriate consideration to relevant equality information it holds when considering what its equality objectives should be.

**Regulation 6** requires an authority to take reasonable step to ensure that any information it is required to hold is accessible by persons of one or more protected characteristic.

## **Publishing**

A listed body in Wales must publish in an accessible format:

- an annual equality report
- a Strategic Equality Plan (and any revisions)
- equality objectives including accompanying statements regarding timescales and actions to be taken
- its reasons for deciding not to publish an equality objective in respect of one or more protected characteristic. This must be done even where an authority has published an equality objective to address the causes of any pay difference related to that protected characteristic
- its reasons for deciding not to publish an equality objective to address the causes of gender pay difference if it has identified a difference in pay between men and women
- an action plan to address gender pay difference
- reports of its assessments of impact on protected groups of proposed policies and practices and any reviews of existing policies and practices, where the impact is substantial.

Reports must include:

- the purpose of the proposed policy or practice
- a summary of the steps taken in carrying out the assessment
- a summary of the information taken into account in the assessment
- the results of the assessment
- any decision taken
- specified employment information, including information on training and (This may be published as part of the annual equality report)
- any relevant equality information (that it holds and which it considers appropriate to publish)

An authority may publish its annual report or its Strategic Equality Plan separately or within other document

**Regulation 7** imposes duties on authority to identify and collect relevant information it hold and it identifies and holds that it does not hold

### **Equality information**

A listed body in Wales must:

- make appropriate arrangements to ensure that it periodically identifies relevant information it holds, and identifies and collects information that it does not have
- make appropriate arrangements to identify and collect information about differences in pay, and the causes of any such differences, between employees who have a protected characteristic and those who do not
- publish relevant information that it holds, unless it would be inappropriate to do so (e.g. if it would breach the Data Protection or other legislation). This information must be published by 2 April 2012 and reviewed periodically.

As part of the process of identifying relevant information, an authority will need to assess how its work and activities may help in fulfilling the three aims of the general duty.

In assessing how it carries out its activities in line with the general duty, an authority must fulfil the engagement obligations and have due regard to other relevant information. This assessment must be undertaken by 2 April 2012 and reviewed periodically.

As part of its specific duties on annual reporting, a listed body is required to publish its reasons for not collecting relevant information that it has identified, but does not hold.

Listed bodies must collect and publish detailed information on the profile of its employees (see Employment information below).

**Regulation 8** requires an authority to make arrangement to ass the likely impact of proposed policies and practices on its ability to comply with the Gender Duty

### **Assessment of impact**

A listed body in Wales must:

- assess the likely impact of proposed policies and practices on its ability to comply with the general duty
- assess the impact of any policy which is being reviewed and of any proposed revision
- publish reports of the assessments where they show a substantial impact (or likely impact) on an authority's ability to meet the general duty
- monitor the impact of policies and practices on its ability to meet that duty.

Reports on assessments must set out in particular:

- the purpose of the policy or practice (or revision) that has been assessed
- a summary of the steps the authority has taken to carry out the assessment (including relevant engagement)

- a summary of the information the authority has taken into account in the assessment
- the results of the assessment
- any decisions taken in relation to those results.

In addition, when assessing for impact on protected groups, listed authorities must:

- comply with the engagement provisions
- have due regard to the relevant information the authority holds

## **Regulation 9** imposes duties in relation to the collection of employment information each year

### **Employment information**

A listed body in Wales must collect and publish on an annual basis the number of:

- people employed by the authority on 31 March each year by protected characteristic
- men and women employed, broken down by:
  - job
  - grade (where grading system in place)
  - pay
  - contract type (including permanent and fixed term contracts)
  - working pattern (including full time, part time and other flexible working patterns)
- people who have applied for jobs with the authority over the last year
- employees who have applied to change position within the authority, identifying how many were successful in their application and how many were not
- employees who have applied for training and how many succeeded in their application
- employees who completed the training
- employees involved in grievance procedures either as a complainant or as a person against whom a complaint was made
- employees subject to disciplinary procedures
- employees who have left an authority's employment.

All of the information above must be presented for each of the separate protected groups. The exception to this requirement is the data on job, grade, pay, contract type and working pattern, which must be broken down only in relation to women and men.

An authority may use its annual report to publish this employment information.

An authority cannot require any employee or applicant to provide any information in relation to their protected characteristics

**Regulation 10** requires an Authority to promote its employees knowledge and understand of the general and specific duties

Requires an authority to make such arrangements as it considers appropriate for promoting amongst its employees knowledge and understanding of the general duty and of the duties in these Regulations. An authority should also identify and address any training needs of its employees in relation those duties.

**Regulation 11** requires its authority to have due regards to the need to have equality objective that address the causes of any pay differences.

**Pay differences**

A listed body in Wales must:

- when drawing up equality objectives have due regard to the need to have objectives that address the causes of any difference in pay between employees who are from any protected group and those who are not, if it appears reasonably likely that the reason for the difference is related to the fact that those employees share a protected characteristic
- make appropriate arrangements to identify and collect information about differences in pay, and the causes of any such differences, between employees who have a protected characteristic and those who do not. This information must be published as appropriate.

**Gender pay differences**

A listed body in Wales must:

- publish an equality objective in relation to addressing any gender pay difference identified or publish reasons why it has not done so
- publish an action plan in respect of gender pay setting out:
- any policy it has that relates to the need to address the causes of any gender pay difference
- any gender pay equality objective it has published (including any revisions). Where it has identified a gender pay difference amongst its staff, but has not published an equality objective to address the causes of that pay difference, the action plan must set out the reasons for not doing so
- a statement about the steps it has taken or intends to take to fulfil its gender pay objective and how long it expects to take.

**Regulation 12** requires an authority to publish an Action Plan which set out a policy relating to Procurement and the consideration relevant to the General duty.

## **Procurement**

When procuring works, goods or services from other organisations on the basis of a relevant agreement, a listed body in Wales must:

- have due regard to whether it would be appropriate for the award criteria for that contract to include considerations to help meet the general duty
- have due regard to whether it would be appropriate to stipulate conditions relating to the performance of the contract to help meet the three aims of the general duty.

## **Relevant agreements:**

The specific duty on procurement only applies to contractual arrangements that are 'relevant agreements', which in this context means either the award of a 'public contract' or the conclusion of a 'framework agreement', both of which are regulated by the Public Sector Directive (Directive 2004/18/EC).

The Directive regulates arrangements that are on or above specified EU thresholds. The thresholds are revised every two years and different thresholds apply according to the nature of the public contract, particularly, whether the contract relates to works or to goods and services. Thresholds for goods or services differ according to the nature of contracting authority.

Public authorities covered by the general duty:

In any event, the requirement to meet the general duty applies to all procurement regardless of the value of the contract.

Even where, for example, the provision of a service is contracted out by a public authority to another organisation, the public authority remains responsible for meeting the general duty.

The organisation actually carrying out the work or providing the goods or services may be exercising a public function. If so, it will itself be covered by the general duty to that extent.

**Regulation 13** to provide arrangements that made to review these regulations.

**Review**

Listed bodies need to review:

- their equality objectives at least every four years
- their Strategic Equality Plan and any revisions. This must be done with due regard to relevant information held by the authority and to any other information that the authority considers would be likely to help in the review.

As a result of the review process an authority may choose to revise the arrangements, objectives or Strategic Equality Plans. If it does so, it must again publish these changes as soon as possible and in an accessible way.

A listed body in Wales must keep under review its arrangements for:

- monitoring the effectiveness of its steps, and its progress, towards fulfilling its equality objectives
- identifying, collecting and publishing relevant information
- assessing the impact of policies and practices being proposed or reviewed
- monitoring the impact of policies and practices
- promoting knowledge and understanding of the general and specific equality duties, using any performance assessment procedures to identify and address related training needs

**Regulation 14** requires an authority to make a Strategic Equality Plan (SEP) by April 2012

**Draw up a Strategic Equality Plan by 2 April 2012.**

This Strategic Equality Plan must include:

- a description of the authority
- its equality objectives (including pay objectives)
- the steps it has taken or intends to take to meet its objectives and in what timescale
- its arrangements to monitor progress on meeting its equality objectives and the effectiveness of the steps it is taking to meet those objectives
- its arrangements to identify and collect relevant equality information. This includes information gathered from engaging with protected groups about how the work of an authority may relate to the general duty. It also includes any information about pay differences related to a protected characteristic and the causes of these differences
- its arrangements for publishing relevant equality information that it holds and which it considers appropriate to publish
- its arrangements for:
  - assessing the likely impact on protected groups of any policies and practices that an authority is proposing, reviewing or revising
  - monitoring their actual and ongoing impact

- publishing reports where an assessment shows a substantial impact (or likely impact) on an authority's ability to meet the general duty
- details of how an authority will promote knowledge and understanding of the general and specific duties among employees, including through performance assessment procedures to identify and address training needs
- an action plan relating to gender pay objectives (see Gender pay differences above).
- It is open to an authority to include in its Strategic Equality Plan any other information relevant to meeting its general duty.

In preparing and revising its Strategic Equality Plan an authority is required to engage appropriately and have due regard to relevant

**Regulation 15** sets the provision concerning the preparation publication and review of the SEP

An authority must publish its SEP as soon as possible after it had been made or remade. If it has been revised without being remade, then the authority must publish the revisions. The SEP may be part of another published document. An authority must keep its SEP under review.

**Regulation 16** requires an authority to publish a report each reporting period.

**Employment Information**

An annual report may include the specified employment information in respect of employees and applicants as of 31 March each year. If the annual report does not contain that information, it will need to be published in other documentation on an annual basis

Annual equality reports must be published by 31 March each year

**Regulation 17** requires the Welsh Ministers to publish reports that set out an overview of the progress made by authorities towards compliance with the general duty.

The reports must also set out Welsh Ministers' proposals for the coordination of action by authorities so as to bring about further progress towards compliance by those authorities with the general duty.

**Regulation 18** requires that authorities should have regard to whether award criteria should include relevance to performance to the general duty.

Makes provision about public procurement in instances where an authority is a contracting authority. Such authorities should have regard to whether award criteria should include considerations relevant to performance of the general duty. Also a contracting authority must have due regard as to whether any conditions imposed by them should include considerations relevant to performance of the general duty.

**Regulation 20** states there is nothing in these Regulations that should require an Authority to publish information if it would constitute a breach of confidence in line with the Data Protection Act 1998.

An authority is not required to publish any information that it would be entitled to refuse to produce in a court or tribunal in England or Wales, e.g. information subject to legal professional privilege. Apart from the above there are no other available exemptions from disclosure of the information.

